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PIPELINES:

Judge freezes Dakota Access work near Missouri River

Ellen M. Gilmer, E&E reporter

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Developers of the controversial Dakota Access oil pipeline may continue construction in an area near a Missouri River reservoir believed by an American Indian tribe to hold burial grounds and other artifacts but must halt plans for work closer to the river.

After a heated round of arguments today at the U.S. District Court for the District of Columbia, Judge James Boasberg sidestepped the request from the Standing Rock Sioux Tribe to block construction on a segment of the pipeline near Lake Oahe, but instead brokered an agreement that blocks work along the project corridor 20 miles east of the lake and 2 miles west of the lake.

The work freeze lasts until midnight Friday, when a decision on the broader injunction request will be issued.

The tribe requested the temporary restraining order Sunday after Dakota Access began grading a portion of the pipeline corridor west of Lake Oahe, adjacent to the tribe's North and South Dakota reservation. The tribe had filed a declaration with the court just one day earlier noting a recent discovery of "historically and religiously important stone features and graves" in and around that section of the pipeline's right of way, which is on private land.

Today's agreement allows construction to continue on that site and points west of it. The eastern portion affected by the agreement included an already-complete section and a section where Dakota Access had already voluntarily halted construction to avoid aggravating tensions with protesters.

The Standing Rock Sioux had requested a restraining order that would have prevented further construction activities within 20 miles of the lake until the court makes a broader decision on whether to block construction and freeze permits for the 1,200-mile length of the project while the tribe's lawsuit over Army Corps of Engineers permitting plays out ([EnergyWire](#), Sept. 6).

Former Tribal Historic Preservation Officer Tim Mentz Sr., who now runs a cultural surveying business, described the discovery as "one of the most significant archaeological finds in North Dakota in many years."

Dakota Access says its workers walked the area at issue before the weekend's grading activities and determined that no cultural sites would be disturbed.

"During the walk through and during grading, nothing was found," the company said today in a legal filing. "Bones were not unearthed. Graves were not found. No structure of historical significance was noted."

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The Army Corps, meanwhile, did not oppose the restraining order, noting in a brief that "the public interest would be served by preserving peace near Lake Oahe until the Court can render its well-considered opinion on Plaintiff's Motion for Preliminary Injunction."

The pipeline has recently encountered a wall of opposition, with thousands of members of the Standing Rock Sioux and other tribes, plus environmental allies, gathering in North Dakota to rally against the project, calling it "the next Keystone XL" (*Greenwire*, Sept. 6).

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